

Whitefish Trust Land Plan Advisory Meeting  
Thursday, January 22, 2004  
North Valley Hospital  
6-9pm

**Committee Members Attending**

Alan Elm, Committee Chairman  
Greg Gunderson  
Steve Lorch, DNRC  
Paul McKenzie, Stoltze Lumber  
Rob Hedstrom, Whitefish Rifle Club  
Tyler Tourville, Flathead Fat Tire Club  
Jeff Gilman (alternate)  
Richard Marriot  
Andy Feury, Mayor of Whitefish  
Charlie Abell  
Gary Hall, County Commissioner  
David Greer, DNRC  
Leesa Valentino  
Donna Maddux, Superintendent, Flathead County Schools

Janet Cornish, Facilitator/Consultant

Framework for meeting:

1. Land Board response to letter
2. Input from Beneficiaries
3. David Greer overview on Neighborhood Planning
4. Eric Mulcahy: Tri-city planning office review of Neighborhood Plans
5. Janet Cornish: Goals and policies review and consolidation
6. Comments on Resource Document
7. Public comment

**Memorandum from Land Board Staff**

Committee received a memorandum from Jeanne Holmgren, Real Estate Management Bureau Chief for DRNC that was requested by the Land Board to address the questions posed by the Advisory Committee in the recent letter requesting the Land Board presence at a future committee meeting. The Advisory Committee also received a legal briefing from Tommy Butler, DNRC's Chief Legal Counsel on Forest and Trust Lands. The memo gives a brief legal description governing Trust Lands and sites certain related cases.

The Advisory Committee acknowledged that the Land Board essentially put the responsibility of developing the land-use plan back into the hands of the committee to determine the best use for these Trust Lands.

## Beneficiaries

Frank Gilmore, Chancellor of Montana Tech, Butte

Dan Baraby, Representative from Executive Board from Montana Tech, Butte

- Speaking on behalf of small beneficiaries of the Trust. Schools established by grants in 1889, 100,000 acres, granted to the state of Montana for the establishment and maintenance of School of Mines at Montana Technical College.
- Specified lands designated to generate income for Montana Tech.
- Currently, that amount is in the range of \$700,000 per year.
- From money in permanent trust, which is approximately \$3 million, from sale of 41,000 acres of the original 100,000 acres.
- The remaining 59,000 acres, generates approximately \$250,000 from interest from permanent trust. Remaining amount of the income for Montana Tech comes from leases, grazing leases, and cabin sites. The largest amount of income per acre comes from cabin sites.
- Claims that some of the Trust land has become extraordinarily valuable. Emphasizes that public use is not the reason that these lands were dedicated to the Trust.
- Sites Echo Lake example for public access/leasing arrangement between the State and Fish, Wildlife and Parks.
- Under the understanding that this committee wants to keep most of the land as open space. Potential court challenge if lands are set aside solely as open space.

### Suggestions for Committee:

1. Have an additional representative from other beneficiary other than Superintendent of Schools serve on the Advisory Committee.
2. Look at Trust lands as your own in establishing the highest and best use for this property; what would you tell a potential buyer was the highest and best use; be specific about parcels that are essential as open space
3. For lands that are set aside, create a local bond to pay for land at market value to put money into permanent trust. Payout not extremely high, but higher than what is being generated now.
4. Ask Legislature to put these lands into the Coal Trust Fund.

Leslie Taylor, Attorney, MSU representative

- Acknowledges merit in looking at diversification of the best use of the lands.
- Recognizes that this is the first time that people have come together to collaborate on the future of the Trust Lands.

- Land use plan should abide by mandate to maximize the income to beneficiaries.

Danelle Reisch, Montana School Boards Association

Says that the money generated on the surrounding Trust Lands is invisible to the Whitefish school system. Generally, if the Trust Lands were to generate more income, it could increase the taxable value in a district, which could result in the individuals paying less in school taxes.

Breakdown of Beneficiaries in Whitefish Area School Trust Land Study Area:

1,600 acres: MT TECH has about MSU has

1,600 acres: Public schools, K-12

5,000 acres: MSU

Remaining 4,800 acres are for other schools including educational teacher's colleges, public buildings, School for the Deaf and Blind

Majority acreage benefits the University System in Whitefish study area. Statewide, K-12 has the largest land specifically dedicated for them.

Discussion:

How does the outflow of money work to the beneficiaries?

Lump sum upon timber harvest goes to beneficiary. Proceeds go into permanent trust and then earn interest. If land is leased for farming, grazing, commercial use, cabin sites, after management costs, then proceeds go specifically and directly to the beneficiary that year. Management fee to DNRC; Money from timber sales goes into permanent trust. Money from a Trust land sale goes into the permanent trust. Trust Land sale income can go into a land bank fund. Rules for this process are currently being developed by the State.

Flathead Lake example of returns on Trust lands:

Land assessed at \$4-5 million. Return on that land in 100 years only made about \$2,000. Holding the land for timber use for the long-term may not be the best use to generate money for the beneficiaries.

Enrollment of Montana Tech up 5% this last year with a 98% job placement rate for graduates.

Committee observed that MT Tech receives an 8-10% annual return from their share of the permanent trust. In order to increase income to the trust, the management practice on this land would have to generate income that would exceed the existing rate of return.

## **MOTION:**

Motion that the committee invite a representative to be involved in /be a part of planning process with the planning effort. Motion seconded.

Discussion of motion includes whether or not the beneficiary representative would be a voting member of the Advisory Committee, concern that DNRC already represents the beneficiaries on the Committee.

Motion changed that DNRC would resign one seat to allow a set beneficiary to participate on the committee.

VOTE: 5-9. Motion fails.

Janet will supply beneficiaries with minutes.

## **Neighborhood Planning Process:** David Greer

Community plans are goals and policies plans. Identify issues, goals and policies. Neighborhood plans generally provide more details to the comprehensive plan for the community.

Typical format for Neighborhood Plans:

- Resource document provides background information
- Public process to identify issues
- Identify goals and policies
- Create implementation strategies

In Flathead County, Neighborhood Plans exist to refine land-use for typically larger areas where there has been increased growth rates. Neighborhood plans tend to go hand in hand with zoning or exist in areas where there is limited to no zoning in the County in order to provide guidelines for growth. Many neighborhood plans contain land-use regulations.

Flathead County Planning Office resource for Neighborhood Plans

Distributes and summarizes format of West Valley Neighborhood Plan and Rogers Lake Neighborhood Plan.

West Valley Neighborhood Plan

- 45,000 acres
- Includes land-use goals
- Identifies different land-use policies: agricultural, forestry, commercial, industrial, open space, residential

## Rogers Lake Neighborhood Plan

- 2,500 acres
- Goals, (no policies)
- Identifies density limitations
- Identifies and protect wetlands and sources of water into the lake

Key component of any Neighborhood Plan is that they are based on the interest of that community.

DNRC states that West Valley Neighborhood Plan closest example of what this plan would look like. Observation from the committee that they shouldn't parallel the West Valley Plan because of lack of foresight to fire danger with developing in the wildland interface and that plan is antiquated by 20 years. Suggestion that committee learn lessons from the existing plans and draw independent conclusions according to the specific study area.

## **General concept of Neighborhood Plans: Eric Mulcahy**

Eric Mulcahy is a planner with the Tri-City Planning Office and brings his experience of Neighborhood Plans in the Flathead from past work with the Flathead Regional Development Office. Eric has offered to assist the Advisory Committee in developing implementation strategies for the Whitefish Area Trust Land Plan and is willing to review, provide feedback and make recommendations to the Committee as they develop their Neighborhood Plan.

Presentation:

Why we do Neighborhood Plans?

- Provide predictability in land-use to given properties, neighborhoods or districts; Predictability is achieved because the neighborhood to knows the land-use potential of the given property. Comprised of issues, goals, policies, and implementation strategies.

Predictability for Trust Land:

Neighboring property owners would know the possible development potential on DNRC lands. DNRC would know their possible range of uses for producing money for the Trusts.

Process of Developing Neighborhood Plan:

Step#1: Issue development: Summer meetings hosted by DNRC; Formation of Advisory Committee to bring the issues to the table.

Step #2: Goal identification and goal statements: Generally broader context: ex: to protect water quality, ensure public access, etc...

Step#3: Develop policies: Suggests making these very detailed and specific policies because of the diversity of land.

Step #4: Implementation strategies: To be driven by the goals and policies; many tools available to achieve goals  
Key to making this plan work:

Policies can be written very narrowly and tailor them to identify the specific needs of the goals. Identify development constraints and then develop a strategy to generate the income for the trust. Under state law, subdivision review or cabin lease lots, under subdivision statute; one of the criteria asks if the proposed plan complies with adopted neighborhood plan or with Growth Policy. The Planner would then refer to the existing Neighborhood Plan as a guiding document in the subdivision review process.

Discussion:

Plans are fluid and can be changed or modified. Interpreted by jurisdictional governing body. Additional screening factor for Trust Lands is MEPA, which involves another public comment period.

Concern from the Committee that plan will be modified or not be applicable 10 years from now. The plan will likely have an impact on the Whitefish Growth Policy. It is possible to add a provision in the Neighborhood Plan to remain flexible for future unseen scenarios. There is concern from the committee that the proposed changes within the Trust Land Plan will not be used.

Most of the Trust Land already exists in the Whitefish Master Planning Jurisdiction. Already has goals and policies established for it. Concerns that the group will be making changes to the existing plan that leads to more changes in the future. DNRC wants to set goals and policies so that they can evaluate applications or proposals. In 20 years, the land could be gone into the private sector. As time goes on, more pressure on private lands increases pressure on public lands.

The Committee is essentially creating an addendum to the Master Plan. There are six subunits that are all different and unique. Is it possible to create specific requirements for each subunit with this Neighborhood Plan?

It is possible to create specific requirements for each of the six subunits and to develop specific policies and build constraints to address issues and goals on each unique area. Additional time and cost will be involved in doing this. However, this approach would address the broader goals for the Plan, and then refine through subunit specification to address concerns of hydrology, soil, fire hazards, density, etc...which would then lead to insightful implementation

strategies regarding the development of the Trust Lands. Once the Plan is in place and a proposal is made in the future, it would be the developer who would pay for the cost of feasibility study and potential Environmental Impact Statement regarding development. The specific policies outlined in the Neighborhood Plan would give them the framework in which to work. These policies can be coupled with the existing requirements in the Master Plan. These methods would ensure a higher level of predictability for the future of the Trust Lands, which is the main reason for creating a Neighborhood Plan.

### **Goals and Policies Review and Refinement**

1. To set forth a framework for evaluating land use proposals with respect to
  - Local values and concerns
  - Local land use policies and regulations
  - MEPA
  - Local economic value
2. To manage the lands to produce revenue for the Trust
  - Over-time (add in policies)
3. To provide for public enjoyment opportunities
  - Public access
  - Provide recreation
  - Open-space
  - Viewshed

### **Discussion:**

Weave stewardship into goal #2. Janet will work on policy and distribute to committee to review for next meeting. Take a long-term approach in the management for trust lands to provide greater long-term return. Include long-term approach and short-term approach.

Policies will clarify the goals.

### **Comments on Resource Document**

Committee gives positive feedback about the document. Steve Lorch with DNRC suggests emailing him any minor changes that need to be made.

Additional requests for more in depth mapping and GIS analysis regarding fuels, roads, watershed, soils for all of the Trust Lands in study area. Multiple members express that this information is integral to this planning process.

### **Action Items:**

Identify what resources are available from DNRC to create an in depth GIS analysis of lands.

Identify private resources that may be available to support process.

Request for FAQ section on a website to educate public.

### **Public Comment**

Placement of public comment period discussed to be at the beginning or at the end of the meeting. Concern for people having to sit through entire meeting to make a comment. It would be beneficial and educational for public to participate in these public meetings so that they could make more informed comments at the end of the meeting. It was decided that public comment period would remain at the end of the meetings.

Marshall Friedman: Read the DNRC legal opinion regarding maximizing revenue for the trust. Upon his request, Frank Morrison, former Supreme Court Justice, reviewed the memorandum and drafted an opinion, which refutes the Department's interpretation of the law. Concerned that the group is basing the entire process on the assumption that the DNRC has the right and the obligation to get revenue from the entire 13,000 acres. Encourages the group to review the letter.

Diane Conradi: Requests that the Committee provide the opportunity and flexibility to ask questions of the public during the meeting.

Rhonda Fitzgerald: Emphasizes the costs of fighting-fire in undeveloped forests are much less than in the urban-forest interface. Money spent on fighting fire would not balance money generated by developing land.

Other information:

David Greer has a new job as the Statewide Planner for the Real Estate Management Bureau in Helena. Has new duties and will probably be stepping back from his role with the Whitefish Trust Land planning process. Lisa Horowitz will be more involved.

Adjourn